

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

NICHOLE DANIELS-FEASEL, Individually
and as parent and natural guardian of infant
C.F., et al.,

Plaintiffs,

v.

FOREST LABORATORIES INC., et al.,

Defendants.

Civil Action No. 17-cv-04188

Honorable Laura Taylor Swain

**NOTICE OF SUPPLEMENTAL AUTHORITY
IN SUPPORT OF FOREST’S OMNIBUS MOTION TO EXCLUDE PLAINTIFFS’
EXPERT TESTIMONY ON GENERAL CAUSATION**

Forest respectfully submits this notice of supplemental authority, in support of its Omnibus Motion to Exclude Plaintiffs’ Expert Testimony on General Causation (Doc. [79]), to apprise the Court of the Second Circuit’s decision in *In re Mirena IUS Levonorgestrel-Related Prods. Liab. Litig. (No. II)*, No. 19-2155 (2d Cir. Dec. 8, 2020) (Ex. 1). “[F]or substantially the reasons set forth in the district court’s thorough opinions,” Ex. 1 at 10-11, the Second Circuit affirmed the district court’s rulings in *In re Mirena IUS Levonorgestrel-Related Prod. Liab. Litig. (No. II)*, 341 F. Supp. 3d 213 (S.D.N.Y. 2018), excluding (*inter alia*) Drs. Moyé and Plunkett under Fed. R. Evid. 702 and *Daubert*. The Second Circuit emphasized that “not only was it appropriate for the district court to take a hard look at plaintiffs’ experts’ reports, the court was required to do so to ensure reliability.” Ex. 1 at 15. “The district court provided in-depth analysis of whether the experts applied their methodologies reliably,” including “discussing in detail how Moyé’s analysis is flawed by serious methodological deficiencies” and “explaining the number of methodological flaws with Plunkett’s analysis.” *Id.* at 16 (quotation omitted). The Second Circuit further noted that the district court “was well within its discretion to consider whether plaintiffs’ experts’

conclusions were generally accepted by the scientific community.” *Id.* at 17.

Dated: December 8, 2020

Respectfully submitted,

/s/ Bert L. Wolff

Bert L. Wolff (BW5407)
Jonathan S. Tam (JT1983)
Lincoln D. Wilson (LW1982)
DECHERT LLP
Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036
Tel: (212) 698-3500
Fax: (212) 698-3599
bert.wolff@dechert.com
jonathan.tam@dechert.com
lincoln.wilson@dechert.com

Sandra A. Bresnick (SB6110)
QUINN EMANUEL URQUHART & SULLIVAN, LLP
51 Madison Avenue
New York, NY 10010
Tel: (212) 849-7000
Fax: (212) 849-7100
sandrabresnick@quinnemanuel.com

John Ipsaro (*pro hac vice*)
ULMER & BERNE LLP
600 Vine Street, Suite 2800
Cincinnati, OH 45202
Tel: (513) 698-5000
Fax: 513 (698) 5059
jipsaro@ulmer.com

Attorneys for Defendants